Meeting of States Parties

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Establishment of staff pension committee

Note by the International Tribunal for the Law of the Sea

I. Introduction

1. The International Tribunal for the Law of the Sea has been a member of the United Nations Joint Staff Pension Fund since 1 January 1997. As of that date, the Tribunal accepted the regulations, rules and pension adjustment system of the Fund, as they were in force on that date and as they may be amended from time to time thereafter.[1] Article 4 (a) of the regulations provides that:

> "The Fund shall be administered by the United Nations Joint Staff Pension Board, a staff pension committee for each member organization, and a secretariat to the Board and to each such committee."

2. A staff pension committee has not yet been established within the Tribunal. The Meeting of States Parties may wish to consider the necessity for establishing such a committee within the Tribunal. In considering this proposal, the Meeting may wish to take into account the factors set out below.

II. Functions of the staff pension committee

3. Under the regulations and rules of the Fund, the staff pension committee in each member organization has been accorded or delegated authority by the Joint Staff Pension Board to deal with the following matters (see articles 4 (c) and 7 of the regulations):

(a) Making substantive determinations. This function includes granting benefits under the Fund's regulations to the Fund's participants and beneficiaries;

[1] Agreement between the United Nations Joint Staff Pension Board and the International Tribunal for the Law of the Sea as to the conditions governing the admission of the Tribunal to membership in the Fund, article 1. The proposals in the present note relate solely to the Fund, whose participants are the staff members of the Registry, and not to the separate pension scheme for the members of the Tribunal that was established by the ninth Meeting of States Parties.

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and applying and interpreting the Fund's regulations and rules in respect of the Fund's participants and beneficiaries. In this regard, the staff pension committee is charged with determining incapacity for the purpose of disability benefits under article 33 (a) and (b) of the regulations (see articles H.1 (a), H.4, H.6 of the administrative rules of the Fund), and determining incapacity of a child of a participant for the purpose of benefits under article 36 (b) and (c) of the regulations (see articles H.1 (a), H.8, H.10 of the administrative rules). Determinations made by a staff pension committee are subject to various review and appeal procedures as set out in the regulations and administrative rules of the Fund (see articles K.1, K.5-7 and K.8 of the administrative rules);

(b) Representative function. This function includes formulating proposed amendments to the regulations and rules of the Fund for consideration by the Joint Staff Pension Board and subsequent submission to the General Assembly of the United Nations; and designating representatives to participate in the regular and special sessions of the Joint Staff Pension Board and in the meetings of its subsidiary organs.

4. In addition, the staff pension committees of each member organization appoint, as provided for in the regulations and rules of the Fund, the members of the Joint Staff Pension Board.

III. Rules of procedure of the Fund

5. Section C of the rules of procedure of the Fund sets out some rules of procedure for staff pension committees. For example, rule C.1 of the rules of procedure provides that each staff pension committee shall hold at least one regular meeting each year. Special meetings of the committee shall be held either at the decision of the Chairman, at the request of the competent authority or at the request in writing of three members of the committee. In other respects, the committee may develop its own procedures, subject to the Fund's regulations and rules of procedure (rule C.6).

IV. Establishment of the staff pension committee

6. Article 6 (c) of the Regulations of the Fund provides that the staff pension committees of the other member organizations shall consist of members and alternate members chosen by the body of the organization corresponding to the General Assembly, its chief administrative officer, and its participants in service, in such a manner that the number representing each shall be equal and, in the case of the participants, that the members and alternate members shall themselves be participants in the service of the organization. Each member organization shall make rules for the election or appointment of the members and alternate members of its staff pension committee.

7. Article 6 (c) of the Regulations establishes the tripartite nature of the staff pension committee. The committee shall be composed of an equal number of members representing the governing body/body of the organization corresponding to the General Assembly, the chief administrative officer, and the participants in the service of the organization. Given the size of the Tribunal, the committee could

comprise three members and three alternates, one member and one alternate to be chosen by each of the three bodies/parties, as follows:

(a) Meeting of States Parties (the body corresponding to the General Assembly);

(b) Chief Administrative Officer (Registrar);

(c) Staff members (being the participants in the Fund).

8. The member and alternate member nominated by the first body (Meeting of States Parties) are normally drawn from the membership of that body, although article 6 (c) of the regulations provides no restriction as to who might be chosen. It is suggested that the Meeting of States Parties nominate a member and an alternate member from the consular corps in Hamburg or the diplomatic corps in Berlin in order to avoid delaying the local meetings of the staff pension committee (which must meet at least once a year) and incurring unnecessary travel expenses. The member and alternate member could be designated by name; alternatively, the Meeting of States Parties could nominate States with a permanent diplomatic or consular presence in Berlin or Hamburg as member and alternate member of the committee. The nominated States could then appoint local diplomats as their representatives on the staff pension committee.[2]

V. Proposed decision by the Meeting of States Parties

9. The Meeting of States Parties may wish to establish a staff pension committee and to constitute the committee as follows:

(a) One member and one alternate member to be chosen by the Meeting of States Parties for a term of office of two years;[3]

(b) One member and one alternate member to be appointed by the Registrar for a term of office of two years;

(c) One member and one alternate member, who shall be participants in the Fund and staff members of the Registry, to be elected by the staff members who are participants in the Fund for a term of office of two years.

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[2] This approach has been followed by a number of organizations, including the United Nations Educational, Scientific and Cultural Organization (UNESCO). The General Conference of UNESCO appoints Member States as members and alternate members of its staff pension committee. These States in turn designate their representatives on the committee. The General Conference generally nominates Member States that have permanent delegations to UNESCO in Paris (see United Nations Joint Staff Pension Fund and UNESCO Staff Pension Committee, 32 C/44, para. 21; see also 32 C/Resolution 72 adopted at the thirty-second session of the General Conference, Paris, October 2003). The International Criminal Court (ICC) has established its staff pension committee. The Assembly of States Parties decided at its third session that the Staff Pension Committee of ICC would be composed of two members and two alternate members appointed by the Bureau of the Assembly of States Parties; two members and two alternate members appointed by the Registrar; and two members and two alternate members who would themselves be staff members of ICC and participants in the Fund to be elected by secret ballot by the staff who were participants in the Fund, each for a term of two years (see resolution ICC-ASP/3/Res.3, adopted at the 6th plenary meeting, on 10 September 2004, para. 29).

[3] The terms of office of staff pension committee members in other organizations vary from two to four years.

10. The Meeting of States Parties may also wish to consider the following options for choosing one member and one alternate member of the staff pension committee:

(a) The member and alternate member could be nominated from among members of the diplomatic or consular corps in Berlin or Hamburg; in this instance, the member and alternate member could be designated by name;

(b) Alternatively, the Meeting of States Parties could nominate States with a permanent diplomatic or consular presence in Berlin or Hamburg as member and alternate member of the committee; the nominated States could then appoint local diplomats as their representatives on the staff pension committee.